

REMARKS

I. Status of the Application

Claims 1-17 are all the claims pending in the application.

Claims 1-17 are rejected under 35 U.S.C. § 112, first paragraph.

Claims 1-5 and 7-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bretschneider (U.S. Patent No. 6,149,254) in view of Baltes (U.S. Patent No. 4,869,872).

Claims 6 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bretschneider in view of Baltes and Spinazzoia (U.S. Patent Application Publication No. 2001/0029163).

II. Amendments to the Specification

Applicant amends the specification to cure minor informality. The support for this amendment can be found in the original claim 3.

No new subject matter has been added.

III. Claim Rejections under 35 U.S.C. § 112, First Paragraph

A. Claim 3 is rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement.

Applicant amends the specification to alleviate this ground of rejection. It is respectfully requested this ground of rejection of claim 3 be withdrawn.

In the event that the Examiner maintains this enablement rejection, Applicant respectfully requests, in accordance with the principles of compact prosecution, that the Examiner articulate, on the record and with specificity sufficient to support a prima facie case of non-enablement, the factual basis on which it is alleged that it would be beyond the level of ordinary skill in the art to make and use the claimed invention without undue experimentation. (MPEP § 2164.01).

B. Claims 1-17 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

To satisfy the written description requirement under the first paragraph of 35 U.S.C. § 112, a patent specification must describe the claimed invention in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the claimed invention (see MPEP § 2163(I)). For newly added claim limitations, the MPEP requires that the specification provide support through express, implicit, or inherent disclosure (see MPEP § 2163(I)(B)). To determine whether the specification provides express, implicit, or inherent disclosure, the MPEP dictates that the factual inquiry to be used is whether the specification conveys with reasonable clarity to those skilled in the art that, as of the filing date sought, Applicants were in possession of the invention as now claimed (see *Id.*). Applicant respectfully submits that such reasonable clarity is present in the specification.

The Examiner alleges that there is no support for the added limitation “said first space and said second space are **without any ribs** therein.”

However, the specification clearly discusses first and second spaces being without any ribs. For example, see the FIGURE of the disclosure which illustrates the first and second spaces without the ribs. For comparison, please see FIG. 1 of the cited reference Bretschneider which clearly illustrates the ribs.

As such, Applicant respectfully submits that a person of ordinary skill in the art would readily appreciate that “said first space and said second space are without any ribs therein” was contemplated in light of the clear support discussed above.

IV. Claim Rejections under 35 U.S.C. § 103(a)

A. Claims 1-5 and 7-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bretschneider in view of Baltes.

Claim 1 *inter alia* recites: “said first space communicating with the outside of said container via at least two outside openings, said second space communicating with said inside zone via at least two openings, and said first space and said second space are without any ribs therein.”

The Examiner states that Bretschneider describes the alleged first and second spaces without ribs in FIGS. 6, 8, 10, 12, and 18-20. (*See* Office Action, page 3, last 3 lines). The Examiner's statements are technically inaccurate.

Bretschneider describes that FIGS. 6 to 20 show variants of a rib rail system 11:

The following FIGS. 6 to 17 show further variants of a rib rail 11. The detail of a cut-to-size metal sheet 38 for a rib rail 11 shown in FIG. 6 has slots or incisions 24. In a subsequent bending process punched areas 29 between the slots or incisions 24 are turned about a rotation axis 28 in the flow direction and direction webs 23 as ribs 12 are oriented in a virtually vertical manner (FIG. 7). Particularly good turbulence is obtained through a displaced construction of the ports 13 and direction webs 23. Side webs 39 are formed by the slots or incisions 24 in the vicinity of the ports 13. (Col. 5, lines 31-40).

According to FIG. 8 a metal sheet 38 for a profile rail 11 with ribs 12 and ports 13. (Col. 5, lines 41-42).

FIG. 10 shows another variant of a metal sheet 38 for a rib rail 11. (Col. 5, lines 49-50).

FIG. 12 shows a detail of a sheet metal blank 38 for a U-shaped profile rail 11 according to FIGS. 13 and 14 ... Ribs 12 are formed by marginal recesses 26, which in each case extend up to a displaced bending edge 27, and ports 13 are formed by spaces between the ribs 12, which are offset in the flow direction (arrows A). The profile rails 11 have stepped rail arms 14, 15 with ribs 12 and are arranged complementary to one another in FIG. 14. (Col. 5, line 66 - col. 6, line 8).

FIGS. 18 to 20 show a double rib rail 42 which is provided with four lines of ribs 44, 50 and can be manufactured by bending a punched out metal sheet 43 (cf. FIG. 18). (Col. 6, lines 25-28).

Accordingly, as demonstrated, Bretschneider clearly teaches the rib system in FIGS. 6, 8, 10, 12, and 18-20 which were referred to by the Examiner to support the contention that Bretschneider teaches the "rib free" system.

Bretschneider describes an equipment cabinet for equipment. A functional area wall is positioned between an outer wall and an inner guide wall and is provided with a rib system (*see* Abstract). The purpose of Bretschneider's disclosure is to provide a rib system inside the inner

channel 8 and outer channel 9 for improved heat removal with fluids being circulated inside these channels.

Bretschneider does not teach or suggest the channels being free of any sort of the rib system. Bretschneider is clearly directed to a rib system for a better circulation of the fluids.

Baltes does not cure any above-discussed deficiency of Bretschneider.

Accordingly, Applicants respectfully submitted that the Examiner's proposed combination of Bretschneider and Baltes does not teach or suggest at least "said first space and said second space are without any ribs therein." It is, therefore, respectfully submitted that **claim 1 and dependent claims 2-16** are patentable.

Additionally, dependent claim 5 recites: "at least a portion of said air circulator device is installed substantially in said second outside opening."

Bretschneider describes the fan 35 being disposed inside the outer channel 9 (FIG. 1) and that it is possible to remove the air from the outer channels by lamellas in the cover 36. (Col. 5, lines 2-5).

However, Bretschneider does not teach or suggest installing the alleged air circulator device substantially in the alleged second outside opening, to expel the circulating air through the second outside opening, as recited in claims 4 and 5.

Baltes does not cure this deficiency of Bretschneider. For at least these additional exemplary reasons, therefore, claim 5 is patentable over Bretschneider and Baltes.

B. Claims 6 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Bretschneider in view of Baltes and Spinazzoia.

Claims 6 and 17 depend on claim 1. As discussed above, Bretschneider and Baltes do not teach all of the features of claim 1. Spinazzoia does not cure any above-discussed deficiency of these references. It is, therefore, respectfully submitted that **claims 6 and 17** are patentable at least by virtue of their dependencies.

AMENDMENT UNDER 37 C.F.R. § 1.116
U.S. Appln. No.: 10/664,865

Attorney Docket No.: Q77525

V. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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